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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/107,141 06/30/98 BEERS

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EXAMINER

ART UNIT

PAPER NUMBER

3644

DATE MAILED:

03/13/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

#016499-546

ETG/NDR

BURNS DOANE, SWECKER & MATHIS, L.L.P.

RECEIVED 2/14/01

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DOCKETED

Air Liquide

Response Due 2/13/01

# Office Action Summary

Application No.

09/107,141

Applicant(s)

Beers et al

Examiner

Woodrow Eldred

Group Art Unit

3644

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 2-28-01.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-3, 5-14, 16-25, and 27-30 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-3, 5-14, 16-25 and 27-30 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 3644

1. The invention contains subject matter which would admit illustration. Applicants are hereby required to provide drawings which show the claimed subject matter. The system for inerting an aircraft fuel tank should be shown or the subject matter canceled from the claims. Applicant is cautioned against the introduction of new subject matter.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 5-14, 16-25, and 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards et al in view of Dornheim.

Edwards et al disclose a system and method for inerting an aircraft fuel tank which comprises contacting a first membrane module with compressed air to produce a first nitrogen-enriched air stream which is introduced into contact with the fuel in a fuel tank during periods of low demand for nitrogen-enriched air and contacting a second membrane module with compressed air to produce a second nitrogen-enriched air stream which is introduced into the fuel tank during periods of high demand for nitrogen-enriched air, and in which the first membrane has a lower O<sub>2</sub> permeance and a higher O<sub>2</sub>/N<sub>2</sub> selectivity than the second membrane. See especially column 7, lines 30-44; column 10, line 61 – column 12, line 18; and Figure 13. Note that in the column 7, lines 30-44 reference to fibers with different “physical characteristics” to produce the gas streams with different purities, the fibers inherently must have the claimed selectivity and permeance in order to produced the disclosed gas streams. Edwards et al fail to disclose the specific parameters of flow rates or establishing conditions to liberate a portion of O<sub>2</sub>

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dissolved in the fuel. Dornheim teaches, see the third paragraph from the end, that in a fuel tank inerting system conditions are created in which "oxygen enrichment occurs from the dissolved air in the fuel." To substitute particular parameters and conditions in the fuel inerting system of Edwards et al in place of unspecified conditions are considered to have been a matter of design and engineering choice in order to achieve the desired performance of the system in a particular situation. To have the claimed flow rates and oxygen liberation is considered, without any indication of unexpected results, to have been obvious to one having ordinary skill in the art.

4. The Remarks filed with the Preliminary Amendment of 2-28-01 have been considered but not found persuasive. Applicant appears to make a distinction between the prior art disclosure of introducing the air stream into the fuel tanks and the current claims. The Examiner, however, believes that the broad claim language that the "air stream is introduced into the fuel in the fuel tank" is read over by the injection of pressurized air into the top of the fuel tank.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Woodrow Eldred whose telephone number is (703) 306-4151.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-4177.



J. WOODROW ELDRED  
PRIMARY EXAMINER  
GROUP 220